

### REMARKS

Claims 1-20 are pending. The Examiner's reconsideration of the rejections in view of the amendments and remarks is respectfully requested.

Claims 1-2 and 5-20 have been rejected under 35 U.S.C. 102(e) as being anticipated by Herrod et al. (U.S. Patent No. 6,405,049). The Examiner stated essentially that Herrod teaches all the limitations of claims 1-2 and 5-20.

Claims 1 and 20 claim, *inter alia*, “determining a position and an orientation of the portable display device in relation to the local reference frame; and providing the product information via the portable display device according to the position and orientation of the portable display device.” Claim 15 claims, *inter alia*, “a correlation means for determining the object according to a known position of the object within the local reference frame, and a position and an orientation of the portable display device; and a database for providing, via the portable display device, information corresponding to the object.”

Herrod teaches a terminal and access point for transmitting information concerning products available in the locality of the terminal for display (see col. 10, lines 36-44). Herrod does not teach or suggest a system for “providing the product information via the portable display device according to the position and orientation of the portable display device” as claimed in claims 1 and 20, nor, “a correlation means for determining the object according to a known position of the object within the local reference frame, and a position and an orientation of the portable display device” as claimed in claim 15. Herrod teaches a motion detector for determining if a terminal has moved for activating a terminal (see col. 17, lines 2-14). Nowhere does Herrod teach how the system for activating a terminal could be used to provide product

information or determine an object, essentially as claimed in claims 1 and 20 and claim 15. Thus, Herrod does not teach “providing the product information via the portable display device according to the position and orientation of the portable display device” as claimed in claims 1 and 20, and “a correlation means for determining the object according to a known position of the object within the local reference frame, and a position and an orientation of the portable display device” as claimed in claim 15. Therefore, Herrod fails to teach all the limitations of claims 1 and 20, and 15.

Claims 2 and 5-14 depend from claim 1. Claims 16-19 depend from claim 15. The dependent claims are believed to be allowable for at least the reasons given for claims 1 and 15. Reconsideration of the rejection is respectfully requested.

At least claims 7 and 10 are believed to be allowable for additional reasons.

Claim 7 claims, *inter alia*, “determining the orientation of the portable display device.” Claim 10 recites, “the local reference frame is established using passive environmental markings.”

With respect to claim 7, Herrod teaches that an access point transmits information concerning products available in the locality of the terminal for display on the display (see col. 10, lines 36-44). Herrod does not teach “determining the orientation of the portable display device” as claimed in claim 7. Herrod teaches a motion detector for determining if a terminal has moved for purposes to activating a terminal (see col. 17, lines 2-14). However, Herrod does not teach that an orientation is determined. The detection of movement, as taught by Herrod does not include determining an orientation, only a determining a change in orientation. Therefore, Herrod fails to teach “determining the orientation of the portable display device” as claimed in claim 7. The Examiner’s reconsideration of the rejection is respectfully requested.

Regarding claim 10, Herrod teaches access points and a terminal (see col. 10, lines 36-44). Herrod does not teach that a “local reference frame is established using passive environmental markings” as claimed in claim 10. The access points communicate with the terminal, and thus are active. Nowhere does Herrod teach a local reference frame established using passive environmental markings, essentially as claimed in claim 10. Therefore, Herrod fails to teach all the limitations of claim 10. The Examiner’s reconsideration of the rejection is respectfully requested.

Claim 3 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Herrod. The Examiner stated essentially that Herrod teaches or suggests all the limitations of claim 3.

Claim 3 depends from claim 1. Claim 3 is believed to be allowable for at least the reasons given for claim 1. The Examiner’s reconsideration of the rejection is respectfully requested.

Claim 4 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Herrod in view of Stevens (U.S. Patent Application No. 2002/0087392). The Examiner stated essentially that the combined teachings of Herrod and Stevens teach or suggest all the limitations of claim 4.

Claim 4 depends from claim 1. Claim 4 is believed to be allowable for at least the reasons given for claim 1. The Examiner’s reconsideration of the rejection is respectfully requested.

Applicants note that in the Conclusion of the Office Action that the Examiners stated with respect to “any factual determination or legal conclusion made by the Examiner in this Office Action whether expressly stated or implied” that “Failure by Applicant(s) in their next response to traverse the Examiner’s positions and provide appropriate arguments in support thereof will be considered an admission by Applicant(s) of the factual determinations and legal conclusions not expressly traversed.” Respectfully, the Examiner is without the authority to make “legal conclusions.” Further, Applicants retain the ability to challenge any factual

determinations at any time, except as provided, for example, under MPEP 2144.03, so long as the reply to the Office Action is responsive to every ground of objection and rejection in the prior Office Action, and appears throughout to be a bona fide attempt to advance the application.

For the forgoing reasons, the application, including claims 1-20, is believed to be in condition for allowance. Early and favorable reconsideration of the case is respectfully requested.

Respectfully submitted,



Nathaniel T. Wallace  
Reg. No. 48,909  
Attorney for Applicants

Mailing Address:  
**F. CHAU & ASSOCIATES, LLC**  
130 Woodbury Road  
Woodbury, New York 11797  
TEL: (516) 692-8888  
FAX: (516) 692-8889